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## Natural Resources - Property-Rights Baron

Margaret Kriz ([E-mail this author](#))

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If House Resources Committee Chairman Richard Pombo wondered whether he'd truly arrived as a Washington power broker, having deep-pocketed lobbyists throw a splashy gala in his honor at the Republican National Convention should have put any doubts to rest.

At the "Wild Wild West Saloon" party for the California lawmaker and his fellow Resources Committee Republicans, guests packing into a New York City nightclub named Crobar were greeted by dance-hall girls who passed out cowboy hats and buttons that read "Pombo-Palooza." The party featured a mechanical bull, music by the Charlie Daniels Band, and a curtained VIP area where committee members could meet privately with friends and supporters.

The \$250,000 event, organized by the American Gas Association, was underwritten by more than 40 companies, trade groups, and Native American tribes. Sponsors included the American Forest & Paper Association, ChevronTexaco, the Independent Petroleum Association of America, the National Association of Home Builders, and the National Mining Association -- all of which have business pending before Pombo's panel. For Pombo, a 43-year-old Tracy, Calif., cattle rancher known for wearing a cowboy hat, the New York event was proof that his star has risen within the House GOP leadership.

During his first five terms in the House, Pombo was pigeonholed as a very conservative property-rights advocate and a protege of the bombastic Rep. Don Young, R-Alaska, who chaired Resources from 1995 to 2001. But since becoming that panel's chairman in January 2003, Pombo has earned a reputation as a lawmaker willing to engage in tough negotiations with opponents in order to get legislation passed.

"He has grown into the job to be a very good chairman," said Young, who now heads the House Transportation and Infrastructure Committee. "It's a difficult position because of the makeup of the Resources Committee -- the breakout between the West and the East, the rural and the urban. He's probably better than I was at trying to bring [factions] together, because I'm more of a destroy-burn-and-pilfer type of individual. He's trying to get the problems solved."

Yet Pombo, who has a 92 percent vote rating from the American Conservative Union

and a 5 percent score from the League of Conservation Voters, has remained true to his conservative roots and continues to dream of minimizing the regulations that the Endangered Species Act places on developers and property owners. He routinely insists on amending proposed legislation to stiffen protections for private-property owners and to relax federal environmental controls. In some cases, Pombo's conservative language has made it harder to reach a consensus on significant legislation.

For example, negotiations between Pombo and Sen. Dianne Feinstein, D-Calif., over a landmark California water bill known as Cal-Fed, are hung up over Pombo's efforts to limit environmental regulation of future water projects. Pombo favors a provision that would give the Interior Department new authority to build new dams and reservoirs without congressional approval. That provision was not in the Senate version of the \$395 million bill, which is likely to pass Congress this year in some form.

Because of Pombo's newfound power as Resources Committee chairman, many of the people closely watching him are reluctant to publicly comment on his performance. Lobbyists, congressional staffers, and even some environmental activists -- noting that Pombo is sensitive to criticism and under House rules can wield his gavel for another four years -- said they want to avoid starting future negotiations with him on the wrong foot.

"There's a weird dance going on about whether or not a deal can be cut with Pombo," explained one "green" advocate. "Why do I want to pick a fight with a guy who's going to control a piece of legislation that I care about? Even I'm stuck prettying up to him."

### **Leapfrogging His Elders**

Pombo took a controversial path to the chairmanship. He got the job after House Majority Leader Tom DeLay, R-Texas, endorsed him to succeed Jim Hansen, R-Utah, who had retired. But in becoming chairman, the ambitious Pombo leapfrogged over seven more-senior Republicans on the panel, a jump that particularly angered Joel Hefley of Colorado and John Duncan of Tennessee. Hefley quit the committee in protest.

During Pombo's first two years as chairman, he has soothed the feelings of his elders on the committee. He has also reached out to the panel's Democrats, who initially worried that he would try to jam his entire conservative agenda through the committee.

"I've been pleasantly surprised," said the committee's ranking Democrat, Nick Rahall of West Virginia. "The chairman has been fair-minded while at the same time keeping his views clearly known. He's been very considerate of our viewpoint." But Rahall added that on sensitive environmental issues, "we're always on guard."

Pombo has solidified his ties with the White House by shepherding President Bush's land-use proposals through his panel. The most notable of those proposals was the so-called "Healthy Forests Initiative," which supporters say will prevent gigantic forest fires by thinning national forests but critics say will allow too much logging. Pombo

also handled the land-access provisions of the GOP energy bill, which later became stalled and is unlikely to be approved in this Congress.

Meanwhile, Pombo is using his leadership PAC, the Rich Political Action Committee, to build goodwill among fellow Republicans. According to the Federal Election Commission, by the end of August, Rich PAC had collected \$354,000 and had contributed to 35 GOP House candidates. And even though Pombo does not face a strong challenge this fall, by the end of June his re-election campaign had raised \$772,000 -- money he could ultimately contribute to other Republican candidates. Most of that amount came from business PACs, with the energy, agricultural, gambling, and forestry industries leading the way, according to the Center for Responsive Politics. In comparison, Pombo's Democratic challenger, Jerry McNerney, had raised only \$43,000 by the end of June.

The California water bill, which Pombo considers crucial to the farmers in his Central Valley district, tops his current legislative agenda. He is also pursuing his long-held goal -- one that the logging, real estate development, agriculture, and energy industries share -- of overhauling the Endangered Species Act. During this Congress, Pombo was the driving force behind two unsuccessful bills to rewrite the law, which he says is too burdensome on property owners and developers and has failed to do much to help declining species.

Pombo says that in the next Congress, he will renew his efforts to rewrite the Endangered Species Act. He also anticipates that the House will resurrect the GOP energy bill, including the public lands provisions that originated in his panel. But next year, he hopes to take the energy debate a step further. He said he is considering legislation to speed regulatory approval of oil and gas projects on federal lands. Energy companies are urging Congress to cut the federal red tape that is slowing energy development.

"We see a need to streamline the permitting process, because it's often so cumbersome that it discourages people from exploring in some parts of the country," said Rick Shelby, executive vice president for public affairs at the American Gas Association. "It's clear that the chairman is sensitive to those needs."

In addition, Pombo expects to begin tackling ocean-related issues in response to a recent report by the congressionally created U.S. Commission on Ocean Policy. The study warned that pollution, overfishing, and government mismanagement have left the oceans in peril. Pombo said he'll wait to see whether the White House recommends legislation to address those problems.

Most observers expect the Senate to take the lead on oceans legislation. But Rep. Wayne Gilchrest, R-Md., is trying to persuade House leaders to create a new standing committee on oceans, similar to the old Merchant Marine and Fisheries Committee, which the GOP folded in 1995. Gilchrest, who chairs the Resources Subcommittee on Fisheries Conservation, Wildlife, and Oceans, said he has been talking with House

Speaker Dennis Hastert, R-Ill., and other committee chairs to promote his idea. However, Pombo, whose committee has jurisdiction over most oceans issues, said, "I don't think you'll ever see it happen."

Pombo said that in working with Democrats, moderates, and environmental groups, he has been attempting to demonstrate that he favors protecting sensitive ecosystems and vulnerable species, despite his disagreement with how certain environmental laws are currently written. "Once we've had some success passing some bills, people will say, 'OK, he's not trying to repeal the Endangered Species Act. He's just trying to fix it,' " Pombo predicted. "Then maybe they'll say, 'OK, let's look at other laws and see if there's a way we could fix them.' "

Specifically, Pombo said he'd like to revamp the National Environmental Policy Act, which has long been a thorn in the side of businesses that log, drill, mine, or graze on federal lands. That law requires government agencies to study the environmental implications of major projects before authorizing them. Private companies that receive federal funds or use federal land also must abide by the law's restrictions. Environmental activists describe NEPA as the Magna Carta of environmental law and are certain to aggressively battle anything they perceive as an effort to weaken it.

Pombo acknowledged that enacting his property-rights agenda depends on Bush's winning re-election. Having Democrat John Kerry in the White House, Pombo said, "would complicate everything. It'd make it a lot harder to get anything done. Because during the Clinton administration, they basically said, 'We're going to veto anything you send us, so don't even bother.' " A change of administration, he said, would "change the dynamics dramatically on trying to get anything done."

### **The Gatekeeper**

On September 22, the House Resources Committee held a markup that showcased Pombo's power as his panel's difficult-to-pigeonhole gatekeeper. Although Pombo has frequently opposed efforts to restrict commercial activity on federal lands, he approved, and the committee passed, legislation to create two vast wilderness areas -- 700,000 acres in Nevada and 11,000 acres in New Mexico. Gilchrest, who is more moderate than Pombo, said the bills are evidence that Pombo has "come a long way" since being elected to Congress 12 years ago as a conservative property-rights advocate. "The committee put a lot of acreage into wilderness designation," Gilchrest said. "That may not have happened if he was chairman in '92."

During the same committee meeting, though, Pombo shelved a proposal to create the "Wild Sky" wilderness area in Washington state. That plan is an important issue in the Washington Senate race between Democratic incumbent Patty Murray and her Republican challenger, Rep. George Nethercutt. The original Wild Sky proposal, which passed the Senate under Murray's direction, would create a 106,000-acre wilderness in the Mount Baker-Snoqualmie National Forest in central Washington. But Pombo argues that 13,000 acres of the property is ineligible for wilderness designation because it was previously logged or otherwise developed. He contends that federal wilderness

protections should be limited to "virgin wilderness, land untrampled by man." However, Democrats and more-moderate Republicans counter that Congress has broadly interpreted federal wilderness law to allow protection of a wide array of lands and has traditionally deferred to a given state's delegation when it comes to writing the details of a wilderness bill.

In early September, Nethercutt, who hoped to use the wilderness bill in his Senate race to depict himself as an environmentalist, responded to Pombo's critique by introducing a new version of the Wild Sky bill, slimmed down to extend wilderness safeguards to 93,000 acres and to provide lesser protections to the 13,000 acres Pombo had targeted.

The scaled-back bill immediately came under fire from congressional Democrats and environmentalists, who criticized Nethercutt for not standing up to Pombo. John Leary, director of the Wild Washington Campaign, described Pombo's reading of the law as "an ideologically driven viewpoint that has been rejected by Congress time and again." At the September 22 markup, some moderate Republicans on the panel also expressed opposition. Rep. Jim Saxton, R-N.J., asserted that the Nethercutt bill "is ill-advised and actually changes the national wilderness policy."

In the face of unified opposition from Democrats and protests within his own ranks, Pombo pulled the bill rather than bring it up for a vote. Since then, newspapers in Washington state have attacked Nethercutt and Pombo for essentially killing the wilderness proposal for this Congress.

### **True to His Roots**

Pombo's advocacy of conservative land-use and property-rights standards isn't surprising. After all, he was inspired to run for office after helping form a California property-rights group, the San Joaquin County Citizens Land Alliance. The group, made up of local ranchers, successfully blocked county plans to build a nature trail on a railroad right-of-way that threaded through private property. Pombo first ran for city council in his hometown of Tracy, where he has a large extended family. Pombo Real Estate signs dot the Central Valley landscape (his uncle owns the firm), and the local Joe Pombo Parkway is named for his grandfather.

In 1992, Pombo ran for Congress and won by only 2 percentage points over Democrat Patti Garamendi, whose husband, John, was then a state senator and is now state insurance commissioner. That contest was Pombo's last tight race. In 2002, when redistricting added several more-moderate eastern San Francisco suburbs to Pombo's district, Democrats predicted that Pombo was vulnerable. But he won re-election with 60 percent of the vote. This year's contest looks like another easy one for him.

On Capitol Hill, Pombo came to the attention of Washington insiders in 1995, when Republicans took control of the House. Young, who then chaired the Resources Committee, tapped Pombo to spearhead GOP efforts to revise the Endangered Species Act. Together, Young and Pombo championed a major overhaul that property-rights advocates and Big Business praised but that ultimately failed because many people

considered it too sweeping. Pombo also unsuccessfully advocated property-rights legislation that would have forced the federal government to compensate landowners when regulations reduced the value of their property.

Although Pombo continues to push for changes to the endangered-species law, he says his property-rights fight has been largely won, even though his legislation went nowhere. "When I got here 12 years ago, property rights were not even in consideration when Congress was drafting bills," he said. "Now, any time you have a land-use bill come through the House, the protection of private-property rights is always part of the debate. We've moved the ball considerably."

Since becoming chairman, Pombo has softened his rhetoric about environmental issues and has adopted an open-door policy in negotiating Resources Committee issues. But former Pombo congressional aide Michael Hardiman said that Pombo has not forgotten the issues and the people who propelled him into Congress. As chairman, "he has brought the little guy into debates in terms of people testifying before subcommittees ... in addition to the usual big-shot lawyer-lobbyists who always have a seat at the table," Hardiman said in an e-mail.

Pombo also continues to periodically issue press releases denouncing "radical environmentalists" for questioning his land-use proposals or for suing the federal government. In a recent release, he charged that environmental litigation "chokes the legal system, kills jobs, and hampers economic growth." Pombo believes that crying foul is part of his job: "Somebody has to be there to say these guys are not being honest."

Some environmental activists are more than happy to return fire. They charge that Pombo's style may be milder than in the past but that his goals remain extreme. "He's not Don Young. He's not Tom DeLay. He's not out there as a firebrand," said Sierra Club Executive Director Carl Pope. "But the substance is the same."

### **The Prelude**

Pombo's first big success as Resources Committee chairman was enactment of the 2003 "Healthy Forests" bill, which reduces restrictions on thinning and logging in fire-prone national forests by limiting the required environmental studies, judicial review, and administrative appeals. The act also provides legal protection for old-growth forests, although the measure's foes say that that provision includes big loopholes. Pombo and Bush administration officials say the law is helping fireproof the national forests, but environmentalists and some Democrats maintain that the measure opened the way for timber companies to log in forests that had previously been protected.

Pombo played an instrumental role in hammering out a compromise between the House's conservative approach and the greener Senate bill championed by Feinstein and Sen. Ron Wyden, D-Ore.

The forestry-bill battle gave Pombo the chance to demonstrate that he understands the

art of the deal. Staff members who worked on the measure say that it won strong bipartisan support in the House because Pombo broadened it beyond the Western forest-fire issues to include provisions designed to help Eastern forests damaged by insects or disease. He also gained support for the bill when massive wildfires hit Southern California and other parts of the West in late 2003. Members of both parties were eager to show constituents that they recognized out-of-control forest fires as a serious problem.

Reflecting on his victory, Pombo says the real success wasn't in getting Healthy Forests through the House: "It was being able to do it where just about everybody was on board."

Now he is hoping for similar success in his efforts to modify the Endangered Species Act. "What we want to do is take on each of these issues separately and try to get people to focus on them," Pombo said. He believes that the two ESA bills approved by the Resources Committee in July provide a good start toward rewriting the act.

One of those bills, sponsored by Rep. Dennis Cardoza, D-Calif., would give federal regulators more time and leeway to decide which lands should be set aside to help protect a declining species. The bill's supporters, including Pombo, charge that the current process is arbitrary and invites litigation. For example, the Fish and Wildlife Service has been widely criticized for considering a plan to designate 4.1 million acres of land in California as critical habitat for the endangered red-legged frog. According to Pombo, "Regulators in Washington just looked at a topographical map and said, 'OK, here's a wet area that could be frog habitat.' Well, they had entire cities included in their map."

Opponents of Cardoza's bill contend that it would make protecting vulnerable species more difficult.

The second bill, introduced by Rep. Greg Walden, R-Ore., would create a new review board to vet the scientific data that regulators use in backing up plans to protect declining species. The panel members would be chosen from among scientists recommended by the National Academy of Sciences or by the governor of the state that would be affected by a given species-protection proposal. Critics charge that Walden's bill is lopsided because it would require scientific review only of regulatory decisions to protect a species, leaving decisions not to protect a species unreviewed.

"Those measures would not improve the quality of science," said Michael Bean, an endangered-species expert with Environmental Defense. Opponents also say that the bill would politicize the species-protection process, because it would allow governors to nominate members of the review panel.

During the next Congress, Pombo's endangered-species legislation is expected to encounter far more serious opposition from environmentalists, Democrats, and moderate Republicans than the forestry bill did in this Congress. Opponents warn that

the bills would gut critical features of the law. "These are not little tweaks," said Marty Hayden of Earthjustice, a nonprofit public-interest law firm. "It is a fundamental weakening of the ESA. The only thing that's changed from 1995 is how [Pombo] talks about what he's doing, not what he's doing."

Already looking beyond this year's bills, Pombo said he would like to develop legislation aimed at giving local communities more say over species-protection programs. "Every state has its own endangered-species law," he noted. "I would like to see a lot more of the implementation of the act devolve down to the state and local level -- to let them decide at the local level where they allow growth and how they're going to recover a species."

On the Endangered Species Act and wilderness bills, Pombo's first two years as chairman have been merely the introduction. The veteran of the 1994 Republican revolution has learned that it's hard to make fast, sweeping revisions to federal environmental laws. But Pombo is in the land-use battle for the long haul. And he'll likely be the guest of honor at many more developer-financed "Pombo-Paloozas."